REMARKS/ARGUMENTS

Claims 1-5 and 9 are pending herein. Claims 1 and 9 have been amended to address matters of form. Applicants respectfully submit that no new matter has been added.

Examiner West is thanked for courtesies extended to Applicants' undersigned representative during a telephonic interview on March 5, 2008. The contents of that interview have been incorporated into the following remarks.

During the telephonic interview, Examiner West tentatively agreed that the arguments presented during the telephonic interview and reiterated below, overcome the rejections of record.

1.   Claims 1, 2 and 9 were rejected under 35 U.S.C. 103(a) over Cisco, Magalhaes, Bearden, and Scott. This rejection is respectfully traversed.

Claim 1 recites a method of assessing speech quality transmitted via a packet-based telecommunications network comprising a step of, in relevant part, extracting a set of parameters from a sequence of intercepted packets. The extracting step comprises the sub-steps of generating a jitter parameter for each packet of the sequence of stored packets and generating a consecutive positive jitter parameter for said each stored packet in dependence upon a polarity of the jitter parameter for the stored packet and a polarity of the jitter parameter for immediately preceding stored packets. The consecutive positive jitter parameter defines the number of immediately preceding stored packets which have been received consecutively, for each of which a polarity of the jitter parameter is positive. The consecutive positive jitter parameter is returned to a value of zero upon receipt of a packet having a non-positive jitter value.

Claim 9 recites an apparatus for assessing speech quality transmitted via a packet-based telecommunications network comprising, in relevant part, means for

extracting a set of parameters from a sequence of intercepted packets. The means for extracting comprises means for generating a jitter parameter for each packet of the sequence of stored packets and means for generating a consecutive positive jitter parameter for said each stored packet in dependence upon a polarity of the jitter parameter for the stored packet and a polarity of the jitter parameter for immediately preceding stored packets. The consecutive positive jitter parameter defines the number of immediately preceding stored packets which have been received consecutively, for each of which a polarity of the jitter parameter is positive. The means for extracting further comprises means for returning said consecutive positive jitter parameter to a value of zero upon receipt of a packet having a non-positive jitter value.

Examiner West is respectfully requested to note that, as illustrated in lines 19-22 on page 12 of the specification, a consecutive positive jitter parameter is generated for **each** stored packet such that each stored packet has a jitter parameter relating to it and a consecutive positive jitter parameter relating to it. Applicants respectfully submit that this feature would not have been obvious to one skilled in the art provided with the disclosures of Cisco, Magalhaes, Bearden and Scott for the reasons explained more fully below.

Cisco discloses a method including counting the total number of packets received having positive polarity and assigning that value to the name NumOfPositivesSD. Cisco fails to disclose or suggest a method or apparatus that includes the generation of any sort of positive jitter parameter that is to be assigned to each received packet. Further, Cisco fails to disclose or suggest a method or apparatus that includes the creation of any sort of consecutive positive jitter parameter defining a number of immediately preceding stored packets which have been received consecutively, for each of which a polarity of the jitter parameter is positive.

For alleged disclosure of such a consecutive positive jitter parameter, Examiner West relies on Magalhaes. During the telephonic interview, the Examiner indicated that he interpreted Magalhaes to teach that a "long run jitter" value increases incrementally upon the receipt of two consecutive packets having a positive jitter parameter. Applicants respectfully submit, however, that this interpretation of Magalhaes is technically incorrect, because the "long run jitter" of Magalhaes is not, in any way, an incrementing integer value. Instead, Magalhaes discloses, in the last paragraph in column 2 on page 167, that the "long run jitter" is an average value that should "hover around zero because the value of the jitter may be positive or negative," and grows when "the system is experiencing congestion, since each individual jitter is getting larger without a negative jitter to cancel out the increase." According to the correct interpretation of Magalhaes, the combination of Magalhaes with Cisco would, at most, result in the addition of a performance metric including an average of the jitter values collected. Further, it should be clear that this combination of Magalhaes with Cisco would have failed to disclose or suggest incrementally increasing the integer value relating to the number of consecutively received packets having a positive jitter. During the telephonic interview, Examiner West agreed with these arguments and tentatively agreed that such arguments would overcome the rejection of record.

Bearden, used by Examiner West only for its alleged disclosure of network traffic generation and monitoring systems and methods for use in testing frameworks for determining suitably of a network for target applications, such as VOIP network applications, fails to overcome the deficiencies of Cisco and Magalhaes.

Similarly, Scott fails to overcome the deficiencies of Cisco, Magalhaes, and Bearden. Scott merely discloses that a series of packets "played out" (right column in Figs. 11-13) can be numbered using an index that may start at zero and count up until

a silence packet is encountered by gateway 110. Examiner West is respectfully requested to note the numerical index is assigned to the packets "played out" and not the received packets such that the silence packet is not, in any way, related to net congestion or the like. It appears that the index numbers are reset to zero upon the receipt of a silence packet played out so that the index values do not become unnecessarily large. In light of the foregoing, it should be clear that Scott fails to overcome the deficiencies of Cisco, Magalhaes and Bearden.

For at least the foregoing reasons, the method of assessing speech quality transmitted via the packet-based telecommunications network, as recited in claim 1, would not have been obvious to one skilled in the art provided with the disclosure of Cisco, Magalhaes, Bearden and Scott. Similarly, an apparatus for assessing speech quality transmitted via a packet-based telecommunications network, as recited in claim 9, would not have been obvious to one skilled in the art provided with the disclosures of Cisco, Magalhaes, Bearden and Scott. Claim 2 depends directly from claim 1, claim 2 is also believed to be allowable over the applied prior art. Accordingly, reconsideration and withdrawal of the present rejection are respectfully requested.

2. Claims 3-5 were rejected under 35 U.S.C. 103(a) over Cisco, Magalhaes, Bearden and Scott, and further in view of Carley. Carley is relied on in the Office Action for alleged disclosure of determining both a maximum of the performance metric followed by a standard deviation of the maximum as well as a standard deviation of the performance metric followed by a subsequent standard deviation. Thus, the disclosure in Carley relied on in the Office Action fails to overcome the deficiencies of Cisco, Magalhaes, Bearden and Scott as attempted to be applied to claim 1, from which claims 3-5 depend. Accordingly, reconsideration and withdrawal of the present rejection are respectfully requested.

If Examiner West believes that further contact with Applicants' attorney would be advantageous toward the disposition of this case, he is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

March 25, 2008
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